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## PATENT APPLICATION

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 2267.398-US-03

Barry L. Rauworth, et. al.

Application No.: 09/960,606

Examiner: S Pollard

Filed: September 21, 2001

Group Art Unit: 3727

For: BLOW MOLDED DRUM

37 C.F.R. §1.132 DECLARATION

RECEIVED

AUG 16 2002

Assistant Commissioner for Patents  
Washington, D.C. 20231

TECHNOLOGY CENTER R3700

Sir:

This Declaration is submitted in support of the Amendment filed with this continuation application.

1. I, Don Brettingen, am a Marketing Director for Entegris, Inc. (hereinafter Entegris), manufacturer of the blow molded drum claimed in the present application. I am familiar with the above referenced patent application, as well as with the development, usages and properties of blow molded drums and dispensing systems for use with high purity chemicals.

COMMERCIAL SUCCESS

2. Entegris is the owner of U.S. Patent Nos. 5,108,015 and 6,079,597 which disclose an apparatus and system for quickly and easily connecting drums for chemicals, such as the drum of the present application, to a chemical delivery system such as is used in semiconductor processing. The disclosed connection system may be generally characterized as having two parts; (1) a drum insert portion that mates with the drum bung and that includes a down tube extending to the bottom of the drum, and (2) a dispense head portion. Normally, the

drum insert portion remains attached to the drum during shipping and serves as a closure, while the dispense head portion remains attached to the chemical delivery system.

3. Drums used for shipping hazardous chemicals, such as many of the chemicals used in semiconductor processing, must pass rigorous tests required by the U.S. Department of Transportation for transport within the United States and the United Nations for transport internationally. One of these tests, required by 49 C.F.R. § 178.603 (2001), requires that the drum be inverted and first dropped diagonally on the chime and, in subsequent tests, on the weakest part of the drum.

4. The extended chime height of the drum of the present invention is essential to protect the drum insert portion of the Entegris connection system during U.S. Department of Transportation/United Nations required drop testing as described above. The drum with the Entegris drum insert portion attached would not pass the drop test and, as a result, the drum would not be approved for transport without the extended chime height according to the invention.

5. The drum of the present invention is a commercially successful product in the electronic grade chemical container market. Sales of 100,000 drums are projected for calendar year 2002 at the current rate of sales. In addition, Entegris forecasts annual sales of 250,000 drums within the next three years. The drum of the present invention is used by the largest supplier of electronic grade process chemicals in the United States to package and ship its products.

6. The commercial success of the drum according to the present invention is due, in significant part, to the extended integral high chime feature. As hereinbefore stated, without the extended chime height feature, the drum of the present invention with the Entegris drum insert closure would not be approved for transport by the U.S. Department of Transportation, and hence, would not be attractive for use as a container for electronic grade chemicals.

### COPYING BY COMPETITORS

7. Riedel-de Haën AG, was a German chemical company that engaged in the production of various types of industrial chemicals at a manufacturing plant located at Seelze, near Hannover, Germany (hereinafter the Seelze site). In 1996, Riedel-de Haën AG was acquired by and incorporated into AlliedSignal Chemical AG, Seelze. In 1997, Riedel-de Haën was restructured and reorganized within the Specialty Chemicals business unit of the Engineered Materials sector of AlliedSignal.

8. Riedel-de Haën, while a separate company and as a part of AlliedSignal, purchased Entegris products, including the drum of the present invention, for use in packaging and shipping chemical products. As a result, Riedel-de Haën personnel became familiar with the integral extended chime features of the drum of the present invention. At various times while still customers of Entegris, Riedel-de Haën personnel expressed the opinion that Entegris' pricing structure for the drum of the present invention was too high.

9. In 1999, AlliedSignal merged with Honeywell International, Inc. The Seelze site is now owned by Honeywell International, Inc. and is designated Honeywell Specialty Chemicals, Seelze GmbH. On October 29, 2001, Honeywell Specialty Chemicals launched the Riedel-de Haën® product brand of high-purity chemicals for industrial uses.

10. Upon information and belief, Honeywell has arranged with a German company, Richter Kunststofftechnik GmbH & Co. (otherwise known as Rikutec), for the manufacture of a drum with an extended, integrally molded, chime having a height and configuration substantially similar to the drum of the present invention. The Rikutec drum is designated as "UC-Drum", and as of July 22, 2002, was shown on the Rikutec internet web site at the address <http://www.rikutec.de/Behalter/UC-Drum/uc-drum.html>. The Rikutec drum is adapted for use with the Entegris connection system, as well as a similar connection system offered by Rikutec.

11. On January 8, 2001, Honeywell International Specialty Chemicals, Seelze, GmbH obtained approval as a "dangerous goods packaging design type" for the Rikutec drum from the German Federal Institute for Materials Research and Testing. The approval was granted under a certificate number D/BAM 5962 /1H1 for drums carrying the UN-Marking UN1H1/Y1.5/300/.../ D/BAM5962-RIKUTEC.

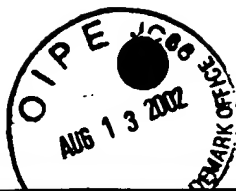
12. A sample of the Rikutec drum has been obtained by Entegris. The sample Rikutec drum is marked UN1H1/Y1.5/300/\_\_\_/D BAM596-RIKUTEC. Photographs of the sample Rikutec drum are attached hereto as Exhibits A-C.

13. Based on the information set forth above, I believe that the integral extended chime features of the Rikutec drum were copied from the drum of the present invention.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 7/22/02

By   
Don Brettingen



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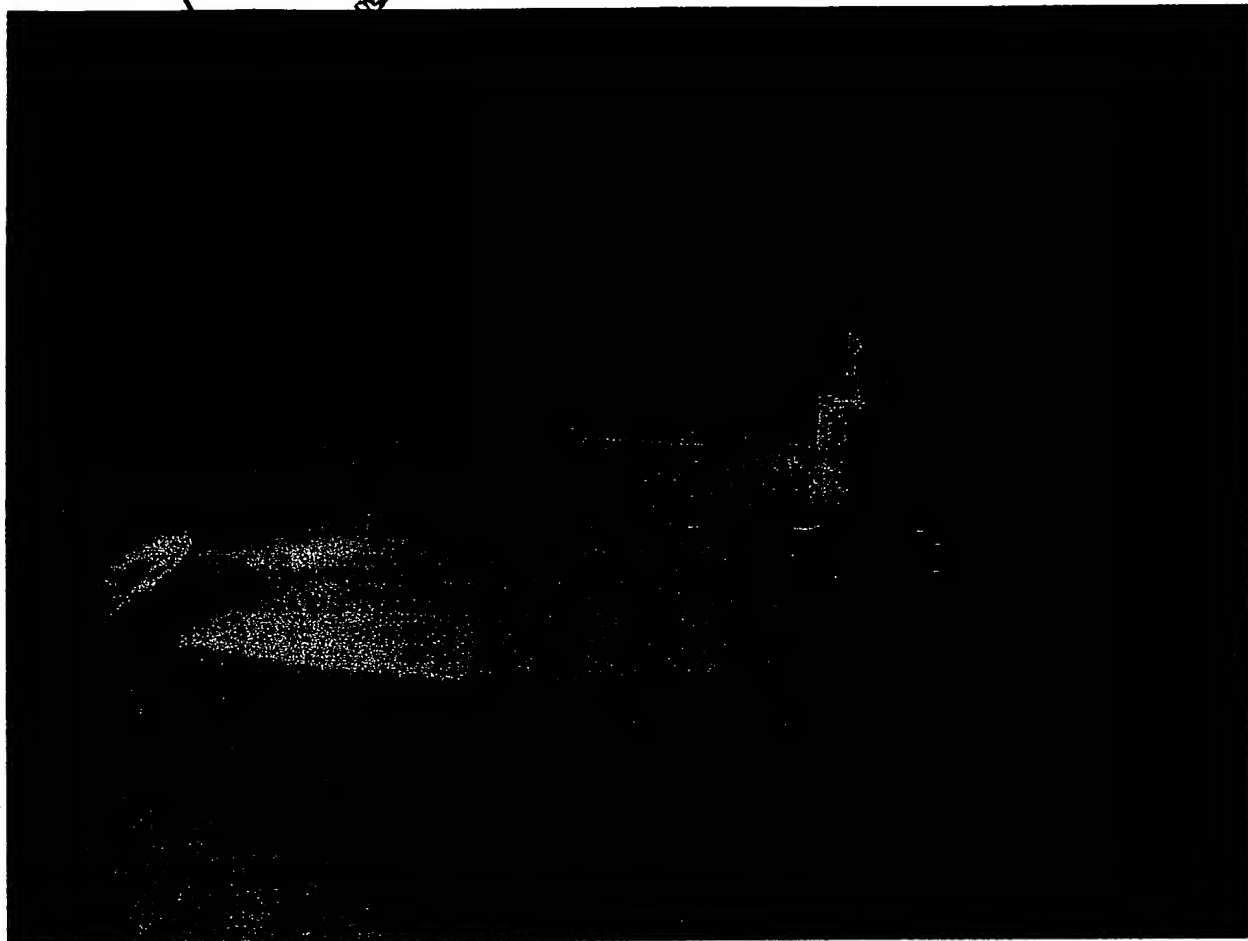


Exhibit A

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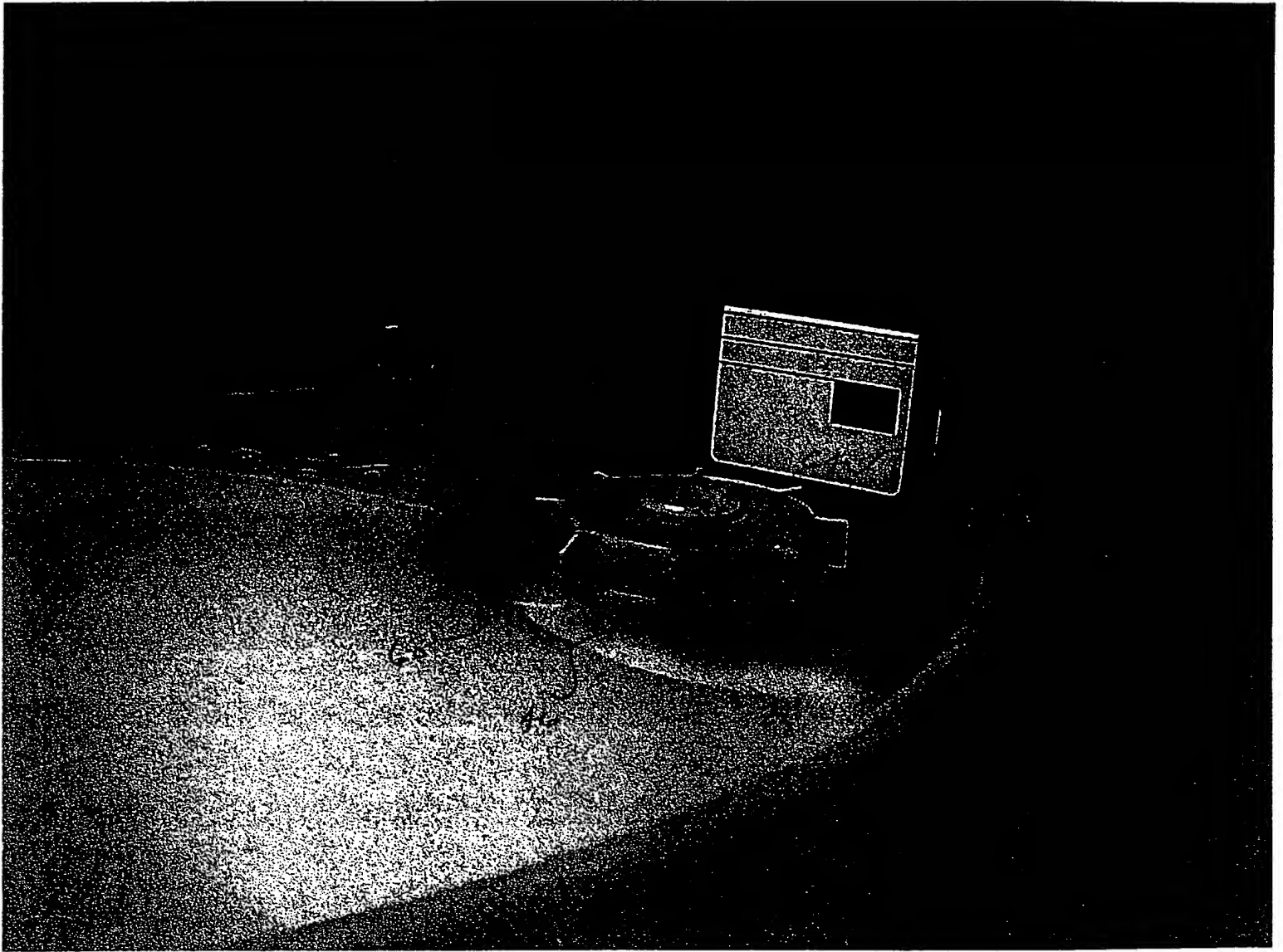


Exhibit B

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Exhibit C

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